

1 TERRY GODDARD
Attorney General
2 (Firm State Bar No. 14000)

3 ELIZABETH A. CAMPBELL
Assistant Attorney General
4 State Bar No. 018311
1275 W. Washington, CIV/LES
5 Phoenix, Arizona 85007-2997
Tel: (602) 542-7681
6 Fax: (602) 364-3202

7 Attorneys for the Arizona State Board of Pharmacy

8
9 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**

10 In the Matter of

11 **DENNIS ROSS,**

12 Holder of License No. S014627
As a Pharmacist
13 In the State of Arizona

Board Case No. 11-0004-PHR

**CONSENT AGREEMENT
FOR CIVIL PENALTY AND
CONTINUING EDUCATION**

14
15 In the interest of a prompt and judicious settlement of this case, consistent with the
16 public interest, statutory requirements and the responsibilities of the Arizona State Board
17 of Pharmacy ("Board") under A.R.S. § 32-1901, *et. seq.*, Dennis Ross ("Respondent"),
18 holder of Pharmacist License Number S014627 in the State of Arizona, and the Board
19 enter into the following Recitals, Findings of Fact, Conclusions of Law and Order
20 ("Consent Agreement") as a final disposition of this matter.

21 **RECITALS**

22 1. Respondent has read and understands this Consent Agreement and has had
23 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
24 opportunity to discuss this Consent Agreement with an attorney.
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1 2. Respondent understands that he has a right to a public administrative
2 hearing concerning this matter, at which hearing he could present evidence and cross
3 examine witnesses. By entering into this Consent Agreement, Respondent knowingly
4 and voluntarily relinquishes all right to such an administrative hearing, as well as rights
5 of rehearing, review, reconsideration, appeal, judicial review or any other administrative
6 and/or judicial action, concerning the matters set forth herein.

7 3. Respondent affirmatively agrees that this Consent Agreement shall be
8 irrevocable.

9 4. Respondent understands that this Consent Agreement or any part of the
10 agreement may be considered in any future disciplinary action by the Board against him.

11 5. Respondent understands this Consent Agreement deals with Board
12 Complaint No. 3791 involving allegations of unprofessional conduct against Respondent.
13 The investigation into these allegations against Respondent shall be concluded upon the
14 Board's adoption of this Consent Agreement.

15 6. Respondent understands that this Consent Agreement does not constitute a
16 dismissal or resolution of any other matters currently pending before the Board, if any,
17 and does not constitute any waiver, express or implied, of the Board's statutory authority
18 or jurisdiction regarding any other pending or future investigation, action or proceeding.

19 7. Respondent also understands that acceptance of this Consent Agreement
20 does not preclude any other agency, subdivision, or officer of this State from instituting
21 any other civil or criminal proceedings with respect to the conduct that is the subject of
22 this Consent Agreement.

23 8. Respondent acknowledges and agrees that, upon signing this Consent
24 Agreement and returning this document to the Board's Executive Director, he may not
25 revoke his acceptance of the Consent Agreement or make any modifications to the
26

document regardless of whether the Consent Agreement has been signed by the Executive Director. Any modification to this original document is ineffective and void unless mutually agreed by the parties in writing.

9. This Consent Agreement is subject to the approval of the Board and is effective only when accepted by the Board and signed by the Executive Director. In the event that the Board does not approve this Consent Agreement, it is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced in any action by any party, except that the parties agree that should the Board reject this Consent Agreement and this case proceeds to hearing, Respondent shall assert no claim that the Board was prejudiced by its review and discussion of this document or any records relating thereto.

10. If a court of competent jurisdiction rules that any part of this Consent Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement shall remain in full force and effect.

11. Respondent understands that this Consent Agreement is a public record that may be publicly disseminated as a formal action of the Board and may be reported as required by law to the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.

12. Respondent understands that any violation of this Consent Agreement constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-1901.01(B)(20), -1927(A)(1).

13. Respondent agrees that the Board will adopt the following Findings of Fact, Conclusions of Law and Order.

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1 ACCEPTED AND AGREED BY RESPONDENT

2 Dennis D. Ross
3 Dennis Ross

Dated: 8-31-10

4 Subscribed and sworn to before me in the County of Dickinson, State of Iowa
5 this 31 day of August, 2010, by Dennis Ross.



6 Marjo Hietbrink
7 NOTARY PUBLIC

8 My Commission expires: 4-3-11

9 **FINDINGS OF FACT**

10 1. The Board is the duly constituted authority for licensing and regulating the
11 practice of pharmacy in the State of Arizona.

12 2. Respondent is the holder of license number S014627 to practice as a
13 pharmacist in the State of Arizona.

14 3. During all relevant times to these findings, Respondent worked as a
15 pharmacist at Walgreens Drug #4344 (the "Pharmacy") in Casa Grande, Arizona.

16 4. In February 2010, the complainant patient had a prescription for amlodipine
17 filled at the Pharmacy. The prescription was incorrectly filled with acetaminophen #3.

18 5. Respondent was the verifying pharmacist, but did not catch the error at
19 verification.

20 **CONCLUSIONS OF LAW**

21 1. The Board possesses jurisdiction over the subject matter and over
22 Respondent pursuant to A.R.S. § 32-1901 *et seq.*

2. The Board may discipline a pharmacist who has engaged in unprofessional conduct. A.R.S. § 32-1927(A)(1).

3. The conduct and circumstances described above constitutes unprofessional conduct pursuant to A.R.S. § 32-1901.01(B)(2) (Violating any federal or state law, rule or regulation relating to the manufacture or distribution of drugs and devices or the practice of pharmacy).

4. The conduct described above violated Arizona Administrative Code R4-23-402(A)(11) (In dispensing a prescription medication from a prescription order, a pharmacist shall make a final accuracy check on the completed prescription medication).

ORDER

Based upon the above Findings of Fact and Conclusions of Law, IT IS HEREBY ORDERED THAT Respondent shall:

1. Pay a civil penalty of \$500.00 within **90 days** of the effective date of this Order; and

2. Successfully complete and provide proof of successful completion to the Board of eight (8) contact hours (0.8 C.E.U.) of American Council on Pharmaceutical Education (ACPE) courses within **90 days** of the effective date of this Order. The course(s) shall be pre-approved by Board staff, shall be limited to topics dealing with error prevention and shall be in addition to the requirements of A.R.S. § 32-1936 and A.A.C. R4-23-204.

3. If Respondent violates this Order in any way or fails to fulfill the requirements of this Order, the Board, after giving the Respondent notice and the opportunity to be heard, may revoke, suspend or take other disciplinary actions against Respondent's license. The issue at such a hearing will be limited solely to whether this Order has been violated.

1
2 DATED this 15th day of September, 2010.

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4 ARIZONA STATE BOARD OF PHARMACY

5 (Seal)

6
7 By: 

8 HAL WAND, R.Ph.
9 Executive Director

10 ORIGINAL OF THE FORGOING FILED
11 this 16 day of Sept., 2010, with:

12 Arizona State Board of Pharmacy
13 1700 West Washington, Suite 250
Phoenix, Arizona 85007

14 EXECUTED COPY OF THE FOREGOING MAILED
15 BY CERTIFIED MAIL
this 16 day of Sept., 2010, to:

16 Dennis Ross
17 25432 182nd St.
18 Spirit Lake, IA 51360
Respondent

19 EXECUTED COPY OF THE FOREGOING MAILED
this 16 day of Sept., 2010, to:

20 Elizabeth A. Campbell
21 Assistant Attorney General
22 1275 W. Washington Street, CIV/LES
Phoenix, Arizona 85007
Attorney for the Board

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24 #946286
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